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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,036	03/24/2005	Akihiko Yamazaki	28951.5379	9056
53067 7590 11/21/2007 STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVE., NW WASHINGTON, DC 20036			EXAMINER TRINH, MINH N	
			ART UNIT 3729	PAPER NUMBER
			MAIL DATE 11/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

CT

Office Action Summary	Application No. 10/529,036	Applicant(s) YAMAZAKI ET AL.	
	Examiner Minh Trinh	Art Unit 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-7 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 8-11 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's response to the Office's Restriction has been duly considered but is held to be without merits. Applicant's response is not persuasive because the reasons proffered are not relevant to an election of species. The Sections of the MPEP cited by Applicant relate to Restriction, not to the requirement for an election of species. The requirement for an election of species is found at Section 808.01(a) in the MPEP. Once claims are determined to be directed to mutually patentable inventions and the Office requires an election of species, a persuasive traverse is an admission on the record that Applicant did not demonstrate that the claimed species are individually patentable, Applicant's reasons therefore are not persuasive. Applicant is not entitled to examination of multiple independent inventions in one application. Moreover, examination of the independent inventions herein would present a serious burden to the Office in as much as the searches are not coextensive and the art is quite prolific. Accordingly, the requirement is repeated and **MADE FINAL**. Thus, Claim 1, 3-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species 1A, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/12/07.

Note: newly added claims 8-11 directed to elected species 1B.

2. This application is in condition for allowance except for the following formal matters:

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In the claims:

Nonelected species 1A (claims 1, 3-7) are requested to be cancelled.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).


A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (571) 272-4569.

The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

mt
11/19/07


MINH TRINH
PRIMARY EXAMINER